

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

Claim 1 has been amended as supported on page 7, lines 6-7, of the specification.

As to claim 11, although applicants do not agree that the previously presented claim form is improper, claim 11 has been amended to improve its form in view of the § 112 rejection. As amended, claim 11 recites that the gauge pressure is between 12 bar and above 8 bar.

The Office asserts that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to dispense the frozen aerated product of Malone et al., US Patent Application Publication No. US 2003/0134024 in the device of Cornelius, US Patent No. 3, 233,779. Applicants enclose a Declaration by inventor Iain Campbell, an employee of an affiliate of the assignee herein. Inventor Campbell reviews the Malone et al. and Cornelius references and concludes in paragraph 5 that in his view the apparatus described by Cornelius would not dispense the frozen aerated product of Malone et al. due to the semi-solid and highly viscous nature of a frozen confection such as that described by Malone et al.

It is unclear why the Office believes that one of ordinary skill would think that the Cornelius apparatus, disclosed as an apparatus for dispensing carbonated beverages and having a bore size of 0.100 inch, with a diameter which may be slightly increased to 1/8 inch, would be suitable for dispensing the frozen confection. Moreover, this view is even further buttressed by the statement by inventor Campbell that the length of the


hose and the bore diameter would not permit dispensing of the frozen confection described by Malone et al.

For the reasons given above and by inventor Campbell, it is respectfully submitted that one of ordinary skill would not combine the Malone et al. and Cornelius references in the manner suggested by the Office.

Although it is not agreed that there was anything improper in the prior form of claim 5, the claim has been reworded as claim 14 to state it more clearly in the form of a process. Claims 6 through 10 have not been amended and it is submitted that these are also in an appropriate form. For instance, although claim 6 references the dispensing apparatus and casing it is equipped with, the dispensing apparatus is recited as part of the process of claim 1. Therefore, claim 6 is essentially reciting that the dispensing apparatus, which is equipped with an insulated casing, is used in the process steps of claim 1. The same follows for the other elements of claims 6 through 10. Consequently, it is respectfully requested that the § 112 rejection be withdrawn.

In view of the foregoing, it is respectfully requested that the rejection be withdrawn.

Respectfully submitted,



Gerard J. McGowan, Jr.
Registration No. 29,412
Attorney for Applicant(s)

GJM/mpk
(201) 894-2297